

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 DAVID ATTALI,

5 15-CV-00426

(AT) (HBP)

6 Plaintiff,

7 - against -

8 CITY OF NEW YORK, P.O. CHRISTOPHER DELBROCOLO,
P.O. JOSEPH BENEDUCE, P.O. BRENDAN SULLIVAN,
9 P.O. PHILLIP MIRANDA, P.O. "JOHN" DRUMMY,
DEPUTY INSPECTOR KEVIN BURKE, SGT. ALEX PORCELLI,
10 SGT. FELIX SANTANA, and LT. DAVID CHANG, Sued In Their
Individual And Official Capacities,

11 Defendants.

12 -----x

13 100 Church Street
New York, New York

14
15 May 19, 2017
10:00 a.m.

16
17
18 EXAMINATION BEFORE TRIAL of P.O. BRENDAN SULLIVAN, one
19 of the Defendants herein, taken by the adverse parties,
20 pursuant to Notice, held at the above-mentioned time and
21 place, before a Notary Public of the State of New York.
22
23

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BY: DOUGLAS LaBARBERA, ESQ.

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by
and among counsel for the respective parties
hereto that the sealing and certification of
the within deposition shall be and the same
are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that
all objections, except to the form of the
question, shall be reserved to the time of
the trial;

IT IS FURTHER STIPULATED AND AGREED that
the within deposition may be signed before
any Notary Public with the same force and
effect as if signed and sworn to before the
Court.

oOo

* * * * *

1 B. SULLIVAN

2 B R E N D A N S U L L I V A N , after first
3 having been duly sworn by a Notary Public
4 of the State of New York, was examined and
5 testified as follows:

6 THE COURT REPORTER: Please state your
7 name for the record.

8 THE WITNESS: Brendan Sullivan.

9 THE COURT REPORTER: What is your
10 present business address?

11 THE WITNESS: 127 Utica Avenue,
12 Brooklyn, New York. That's the address of
13 the 77.

14 EXAMINATION BY

15 MR. AVALONE:

16 Q Good morning, Officer Sullivan. My name is
17 Rocco Avallone. I represent David Attali in regards to
18 a lawsuit that he has filed. I'm going to ask you some
19 questions regarding some of the allegations contained in
20 that lawsuit.

21 If at any time you don't understand the
22 question, let me know and I'll try to rephrase it. If
23 you do answer the question, I will assume that you
24 understood it and you answered it to the best of your
25 ability.

1 B. SULLIVAN

2 I don't want you to guess. If you are
3 guessing or estimating, please let me know that that's
4 what you're doing.

5 Also give all your responses verbally. The
6 reporter takes down everything we say and she cannot
7 take a non-verbal response down like a head gesture or
8 uh-huh, things like that.

9 A Understood.

10 Q If you need to take a break at any time, just
11 say so and we'll break. I will just ask if there is a
12 question pending, you answer the question first and then
13 we break. Okay?

14 A Okay.

15 Q Also please wait for me to finish my
16 questions before you start to answer them. The reporter
17 can only take one of us speaking at one time.

18 So there may come at a point during the
19 deposition, it happens almost every time, where you may
20 anticipate my entire question before I get all the words
21 out and you may start to answer it while I'm still
22 trying to get the question out. That's not going to
23 work. She won't be able to take it down.

24 I'm guilty of it also. You may be in the
25 middle of your answer, thinking that you're done, I may

1 B. SULLIVAN

2 start another question and you're not done so I'll try
3 to keep it at a minimum and hopefully you can do the
4 same.

5 A Okay.

6 Q Officer Sullivan, where are you currently
7 stationed?

8 A PSA 2, Viper 2.

9 Q Is that the address that you just gave?

10 A That's the address for Viper 2. It's an
11 office in the 77 precinct. It falls under the PSA 2
12 command though.

13 Q How long have you been at PSA 2?

14 A A year and a half.

15 Q So --

16 A 18 months.

17 Q Prior to being assigned to PSA 2, where were
18 you assigned?

19 A The World Trade Center Command.

20 Q How long were you at the World Trade Center
21 Command?

22 A Just about four years.

23 Q Four years, say sometime in 2011?

24 A Yes.

25 Q July?

1 B. SULLIVAN

2 A July of 2011, correct.

3 Q When you were at the World Trade Center
4 Command during the period of time, say, 2013, 2014, what
5 was your tour?

6 A Midnights.

7 Q What squad were you on on the midnights?

8 A A1.

9 Q At some point while you were at the
10 World Trade Center Command, did there come a time when
11 you were transferred out of the World Trade Center
12 Command and into PSA 2?

13 A Yes.

14 Q Was that as a result of being modified?

15 A Yes.

16 MR. LaBARBERA: Objection.

17 You can answer.

18 Q Was that as a result of charges and
19 specifications that you received?

20 MR. LaBARBERA: Objection.

21 You can answer.

22 A Yes.

23 Q Were those charges and specifications related
24 to allegations made by Officer Attali?

25 A Yes.

1 B. SULLIVAN

2 Q Have those charges and specifications been
3 litigated or resolved?

4 A Signed yesterday but they're not completed
5 though.

6 Q Yesterday you went to the Advocate's Office?

7 A Yes.

8 Q And you accepted the plea?

9 A Yes.

10 Q What was the plea?

11 A 30 days and one year probation.

12 Q Do you recall what the charges and
13 specifications were for, what the actual charges were?

14 A The exact wording, no.

15 Q In sum and substance, what were they for?

16 A False statement and then I believe the main
17 charge was creating a hostile work environment.

18 Q In consideration for receiving 30 days and
19 one year probation, did you have to plead guilty to the
20 charges?

21 A Yes.

22 Q Do you have copies of the plea agreement?

23 A On me?

24 Q Yes.

25 A No.

1 B. SULLIVAN

2 MR. AVALLONE: I am going to make a
3 demand for a copy of the plea agreement or
4 any documents Officer Sullivan signed in
5 regards to resolving the charges and specs.

6 MR. LaBARBERA: I'm going to request
7 that you make a written demand.

8 Q As a result of the plea that you took
9 yesterday with the Advocate's Office, are you still
10 modified or are you now full duty or something else?

11 MR. LaBARBERA: Objection to form.

12 You can answer.

13 A I'm still modified. I believe it has to be
14 signed off by the PC before anything happens.

15 Q PC meaning?

16 A The police commissioner.

17 Q Is it your understanding if the police
18 commissioner signs off on it, you'll go back to full
19 duty?

20 MR. LaBARBERA: Objection.

21 You can answer.

22 A It's my understanding, yes.

23 Q Do you know if you do go to full duty, will
24 you go back to the World Trade Center Command or
25 somewhere else, if you know?

1 B. SULLIVAN

2 MR. LaBARBERA: Objection.

3 You can answer.

4 A I have no idea. I do not know.

5 Q The admission of you making false statements,
6 was that in regards to your testimony that you initially
7 gave to the OEEEO Sergeant Soto --

8 MR. LaBARBERA: Objection.

9 You can answer.

10 Q -- in comparison to your statement that you
11 made, your GO-15 statements or testimony you gave to
12 IAB?

13 MR. LaBARBERA: Objection.

14 You can answer.

15 A Yes.

16 Q During the time that you were at the
17 World Trade Center Command, did you ever see any
18 advertisements or stickers or Post-its or any type of
19 non-authorized markings on Officer Attali's locker?

20 MR. LaBARBERA: Objection.

21 MR. SINGLETON: Objection.

22 A I couldn't tell you anything specific.

23 Q Where was your locker while at the
24 World Trade Center Command?

25 A Do you know how it was set up?

1 B. SULLIVAN

2 Q Yes.

3 A I was in the secondary locker room, not the
4 main locker room.

5 Q So you were not in the same locker room as
6 Officer Attali?

7 A No.

8 Q Have you ever had an occasion to see
9 Officer Attali's locker?

10 A Yes.

11 Q Why would you go and look or see
12 Officer Attali's locker?

13 MR. LaBARBERA: Objection.

14 You can answer.

15 A The bathroom was in his locker room.

16 Q So your locker room didn't have a bathroom?

17 A No, it did not.

18 Q Do you recall where Officer Attali's locker
19 was in the large locker room?

20 A Yes.

21 Q Where was it located?

22 A I believe it was the first aisle upon
23 entering.

24 Q Where was the bathroom in the large locker
25 room when you walk it?

1 B. SULLIVAN

2 A It would be in the last aisle. I couldn't
3 tell you the number of aisles.

4 Q Towards the back?

5 A Yes, towards the back.

6 Q You said Officer Attali's locker was in the
7 first row?

8 A Yes.

9 Q Would you have to physically pass his locker
10 to go to the bathroom or just pass his row to get to the
11 bathroom?

12 A Pass his row.

13 Q While passing his row to go to the bathroom,
14 you would look at Officer Attali's locker?

15 MR. LaBARBERA: Objection.

16 You can answer.

17 A You could see it, yes.

18 Q So you would look at it?

19 MR. LaBARBERA: Objection.

20 You can answer.

21 A Sure.

22 Q Did you ever notice any advertisements on it
23 like supermarket clippings of pork, bacon, ham on his
24 locker?

25 A No.

1 B. SULLIVAN

2 Q Did you ever stop by his locker to talk to
3 Officer Attali?

4 A I'm sure I have, yes. I couldn't give
5 specifics.

6 Q During those times you didn't see any
7 postings or anything like that?

8 MR. LaBARBERA: Objection.

9 You can answer.

10 A Specific, no.

11 Q I am going to show you what's been previously
12 marked as Plaintiff's Exhibit 6. I ask you to go
13 through the photographs attached to Exhibit 6. Go
14 through them first and then I will ask you some
15 questions.

16 A (Witness complying.)

17 Q Have you ever seen those markings or stickers
18 or advertisements on Officer Attali's locker?

19 MR. LaBARBERA: Objection.

20 A All of them or just the supermarket ones?

21 Q Any of those photographs that you just
22 reviewed, have you ever seen them?

23 MR. LaBARBERA: Objection. Have you
24 ever seen the photos or what is depicted?

25 Q What is depicted in the photos.

1 B. SULLIVAN

2 A There are numerous things depicted like --

3 Q Right now it's a simple question.

4 Have you seen any of those?

5 A Yes.

6 Q What have you seen?

7 A I have seen the National Rifle Association
8 sticker.

9 Q Anything else?

10 A No, just that one in particular.

11 Q What about the Police, Don't Move?

12 A Yes, I have seen the Police, Don't Move and
13 the department stickers.

14 Q Did you ever see the writing, for example, on
15 the first page, in the Police, Don't Move, where it's
16 crossed out and it says dirty Jew?

17 A No, where is that? Is that here
18 (indicating)?

19 Q No, where it's crossed out.

20 A I can't make out that that's what it says.

21 MR. LaBARBERA: Indicating towards the
22 middle of the photograph on the right-hand
23 side next to the \$5.99 price sticker right
24 here (indicating).

25 A Okay. Do I recognize that?

1 B. SULLIVAN

2 Q Yes. Have you ever seen that, the word
3 dirty Jew?

4 A No.

5 Q Do you know who wrote that?

6 A No.

7 Q Have you ever seen anyone place any newspaper
8 clippings or advertisements of pork or ham or bacon on
9 Officer Attali's locker?

10 A No.

11 Q Have you ever heard of someone doing it? Not
12 seeing it but heard that someone did it?

13 A No.

14 Q On the first page of Plaintiff's Exhibit 6,
15 it looks like a newspaper cut out with the words Hail
16 Hitler. Do you know who placed that there?

17 A No.

18 Q You said you recognized the NRA sticker --

19 A Yes.

20 Q -- on Attali's locker?

21 A Yes.

22 Q Based on the first page, do you have any
23 reason to believe that page one of Exhibit 6 is not
24 Officer Attali's locker?

25 MR. LaBARBERA: Objection.

1 B. SULLIVAN

2 You can answer.

3 A It says his name. It should be his locker.

4 Q Now, you testified that you pled guilty to
5 making false statements and creating a hostile work
6 environment.

7 Is that related to the text messages that you
8 sent to Officer Attali?

9 MR. LaBARBERA: Objection.

10 You can answer.

11 A Yes.

12 Q Do you admit that you sent text messages to
13 Officer Attali with a photograph of Adolf Hitler, do you
14 recall doing that?

15 MR. LaBARBERA: Objection.

16 A Specifically, no, but upon seeing the
17 messages, yes.

18 Q Prior to coming here today, did you review
19 the text messages?

20 A Yes.

21 Q And you reviewed photographs of
22 Officer Attali's locker?

23 A I did not review the photos of his locker.

24 Q So Exhibit 6, today was the first time you
25 saw it?

1 B. SULLIVAN

2 A I believe so, yes.

3 Q Other than the text messages, did you review
4 any other documents prior to coming here today?

5 A Written audio that was in the -- what's the
6 word I'm looking for?

7 Q I'm sorry?

8 A The document we were issued. I'm drawing a
9 blank what it's called.

10 MR. LaBARBERA: By counsel, he reviewed
11 the Complaint.

12 A The Complaint, sorry.

13 Q Anything else?

14 A No.

15 Q Did you review any IAB documents?

16 A IAB documents, no.

17 Q Do you recall sending a text message to
18 numerous officers at the World Trade Center Command,
19 we'll call it group messaging, telling everyone to text
20 the Jew every 45 minutes?

21 MR. SINGLETON: Objection.

22 MR. LaBARBERA: Objection.

23 You can answer.

24 A Upon reviewing it, yes. Specifically before,
25 no.

1 B. SULLIVAN

2 Q So you don't deny doing it?

3 A I do not deny doing it, no.

4 Q And you admit that you texted Officer Attali
5 as part of a group messaging saying that you're a dirty
6 spy, Attali?

7 A Yes.

8 Q Did you text photographs to Officer Attali
9 showing dead bodies from the Holocaust?

10 A If that's what it is, then yes.

11 Q Well, I'm going to show you what's been
12 previously marked as Plaintiff's Exhibit 8, pages 45 and
13 46.

14 MR. LaBARBERA: Is there a question
15 pending?

16 MR. AVALLONE: That's the question.

17 MR. LaBARBERA: Read it back.

18 Q You sent those, correct?

19 A Is there somewhere saying I did? If it's
20 under my text then yes. I don't remember specifically
21 sending it.

22 Q Do you recall sending a text to
23 Officer Attali saying I think that was one of Hitler's
24 experiments, the super human penis?

25 A If that's my name, then yes.

1 B. SULLIVAN

2 Q Your phone number at the time, and we're
3 going to put the last four digits and the other ones
4 leave it blank, but for you I'll read it, XXX-XXX-8631,
5 that was your number, right?

6 A Yes.

7 Q And you don't deny that you sent an e-mail to
8 Officer Attali basically saying gay Hitler still had
9 results?

10 MR. LaBARBERA: Objection.

11 You can answer.

12 A An e-mail, I've never --

13 Q I'm sorry, a text message.

14 A A text message, yes, I don't deny it.

15 Q You said you reviewed the Complaint in this
16 case?

17 A Yes.

18 Q And there were certain statements that were
19 alleged to be attributed to you.

20 Do you recall that?

21 MR. LaBARBERA: Objection.

22 You can answer.

23 A Yes.

24 Q Do you deny making any of those statements
25 that were attributed to you?

1 B. SULLIVAN

2 A I don't deny it.

3 Q At some point while you were at the
4 World Trade Center Command, you learned that there was
5 an OEEEO complaint filed by Officer Attali, correct?

6 MR. LaBARBERA: Objection.

7 You can answer

8 A First we learned there was a complaint filed.
9 We didn't know it was by Officer Attali.

10 Q How did you find out that there was a
11 complaint filed with OEEEO?

12 A The XO and CO addressed the roll call.

13 Q What did they tell you?

14 A They pretty much said that a complaint was
15 filed and that's pretty much it.

16 Q Did they tell you what the nature of the
17 complaint was?

18 A They did not.

19 Q Did they give any type of instructions in
20 regards to that OEEEO complaint being filed?

21 A No.

22 Q Do you know what the purpose then of making
23 that statement to the police officers during the roll
24 call was?

25 MR. LaBARBERA: Objection.

1 B. SULLIVAN

2 MR. SINGLETON: Objection.

3 MR. LaBARBERA: You can answer.

4 A I have no idea why they would.

5 Q After learning of a complaint being filed
6 with OEE0, did you have any conversations with any of
7 your fellow police officers?

8 MR. LaBARBERA: Objection.

9 A Concerning?

10 Q Concerning what you were just told by the
11 supervisors.

12 A Not that I can remember specifically, no.

13 Q It's possible, you don't deny there might
14 have been conversations --

15 MR. LaBARBERA: Objection.

16 Q -- regarding it?

17 A It's possible.

18 Q Now, during roll call usually there is a
19 supervisor present, correct?

20 MR. LaBARBERA: Objection.

21 You can answer.

22 A Yes.

23 Q Is it fair to say that during roll call prior
24 to you learning that there was an OEE0 complaint filed,
25 there were numerous occasions when jokes were being made

1 B. SULLIVAN

2 of Officer Attali --

3 MR. LaBARBERA: Objection.

4 You can answer.

5 Q -- while the supervisors were present in the
6 roll call?

7 MR. SINGLETON: Objection.

8 MR. LaBARBERA: Objection.

9 A While roll call was being read out?

10 Q At any time during the roll call.

11 A During roll call, the supervisors are usually
12 just reading the posts so there wouldn't be any jokes
13 being made at that time.

14 Q Right before or a little bit after or
15 whenever there's a break during the roll call?

16 A It's possible jokes would be made, yes.

17 Q And supervisors were present, correct?

18 MR. LaBARBERA: Objection.

19 A It's possible. I couldn't tell you
20 specifically.

21 Q Well, you just said supervisors are present
22 during roll call, correct?

23 MR. LaBARBERA: Objection.

24 A It's possible, yes.

25 Q Do you recall any supervisor ever admonishing

1 B. SULLIVAN

2 either you or any other police officer regarding
3 comments being made in regards to Officer Attali or any
4 other officer?

5 MR. LaBARBERA: Objection.

6 MR. SINGLETON: Objection.

7 A No.

8 Q The charges and specs that you received, were
9 they ever amended at any time?

10 A Yes.

11 Q What were they amended to; what was added or
12 taken out?

13 A The false statements was added.

14 Q As you sit here today and based on the plea
15 that you signed off on with the Advocate's Office, you
16 admit that you sent anti-Semitic text messages to
17 Officer Attali?

18 MR. LaBARBERA: Objection.

19 You can answer.

20 A Yes, but we had a joking relationship. I
21 didn't find them offensive to him.

22 Q So you don't --

23 A I don't deny sending text messages.

24 Q Let me show you what's been marked as
25 Plaintiff's Exhibit 27.

1 B. SULLIVAN

2 Do you recognize that document?

3 A Yes.

4 Q Is that the charges and specs that you
5 received?

6 A Yes.

7 Q And those charges state that you sent
8 anti-Semitic text messages to Officer Attali?

9 A Yes.

10 Q And you say you accepted a guilty plea and
11 took a hit of 30 days and one year probation?

12 A Yes.

13 Q And for doing that, you had to admit that you
14 sent the anti-Semitic text messages, correct?

15 A Correct.

16 Q Who were the supervisors during the midnight
17 tour at the World Trade Center Command when you were
18 there, specifically around 2013, 2014?

19 A Lieutenant Chang, Sergeant Santana,
20 Sergeant Porcelli and Sergeant Brooks.

21 Q Did those supervisors, or any of them, were
22 they aware of the joking that was going back and forth
23 with the members in the World Trade Center Command, to
24 your knowledge?

25 MR. LaBARBERA: Objection.

1 B. SULLIVAN

2 A To my knowledge, I have no idea.

3 Q At some point you did find out that the OEEEO
4 complaint was made by Officer Attali, correct?

5 A Correct.

6 Q How did you find out?

7 A When I picked up my paperwork from OEEEO, it
8 had him as filing a complaint against me.

9 Q When you say "paperwork," what kind of
10 paperwork did you pick up?

11 A I guess it was a complaint against me, a
12 charge or accusation against me.

13 Q How did you know to go to the OEEEO?

14 A I received a notification.

15 Q Did you ever learn that advertisements of
16 pork, ham, bacon was found on Officer Attali's locker at
17 any time?

18 A No.

19 Q Do you know if OEEEO ever came to the
20 World Trade Center Command to inspect his locker?

21 A I don't know. I wouldn't know that.

22 Q Lieutenant Conry, what were his
23 responsibilities at the World Trade Center Command, if
24 you know?

25 A He was the ICO.

1 B. SULLIVAN

2 Q Did Lieutenant Conry ever speak to you in
3 regards to the OEEO complaint?

4 A Not to my knowledge, no. Maybe when I had to
5 go down but I specifically can't remember.

6 Q Now, you gave certain statements to
7 Sergeant Soto at OEEO, correct?

8 A Correct.

9 Q And those statements or answers to
10 Sergeant Soto's questions were recorded, correct?

11 A Correct.

12 Q Did you ever get a copy of the recordings of
13 your statements?

14 A Yes.

15 Q You have a copy of Sergeant Soto's interview
16 of you?

17 A Yes.

18 Q Where did you get it?

19 A My lawyers.

20 MR. AVALLONE: I'm going to make a
21 demand for that because it's my understanding
22 that these tapes disappeared.

23 MR. LaBARBERA: We have copies of
24 Officer Sullivan's OEEO recording that were
25 produced by the City so.

1 B. SULLIVAN

2 MR. AVALLONE: You produced it? When
3 you say the City -

4 MR. LaBARBERA: In discovery in this
5 litigation.

6 MR. AVALLONE: I'm going to make a
7 demand for a copy of the recordings of the
8 interview between Sergeant Soto and
9 Officer Sullivan.

10 MR. SINGLETON: I don't recall at this
11 stage what I produced but I will tell you I
12 did not produce anything to one counsel --

13 MR. LaBARBERA: Do you want to go off
14 the record?

15 MR. AVALLONE: Yes.

16 (A discussion was held off the record.)

17 MR. AVALLONE: I am going to make a
18 demand for any and all tape recordings of
19 interviews conducted by anyone at OEE0 with
20 any of the witnesses or defendants in this
21 case if they have not been previously
22 provided.

23 If they were provided, I would ask that
24 I be informed as to what the Bates stamp
25 location of those items are.

1 B. SULLIVAN

2 Q Officer Sullivan, as you sit here today and
3 based on your testimony, your answers to some or many or
4 all of the questions during your interview with
5 Sergeant Soto and OEE0 were false, correct?

6 MR. LaBARBERA: Objection.

7 You can answer.

8 A Many of them, yes.

9 Q Sergeant Sullivan, I am going to show you
10 what has been marked as Plaintiff's Exhibit 38.

11 Do you know who is depicted in that
12 photograph?

13 A I'm sorry, I can't tell.

14 Q Does it resemble anyone you know?

15 MR. LaBARBERA: Objection.

16 You can answer.

17 MR. SINGLETON: Objection.

18 A Not really, no.

19 Q If I were to tell you that is
20 Sergeant Santana, does that refresh your recollection?

21 MR. LaBARBERA: Objection.

22 MR. SINGLETON: Objection.

23 A It could be. It's a really blurry photo.
24 I'm sorry. I can't 100 percent tell you.

25 Q Prior to coming here today, did you have any

1 B. SULLIVAN

2 conversations with Officer Delbroccolo?

3 MR. LaBARBERA: Objection.

4 A Yes.

5 Q Did Officer Delbroccolo speak to you about
6 his deposition that he had yesterday?

7 A Only about the length of time.

8 Q Did he tell you some of the questions or
9 issues or content of any of the questions he received
10 yesterday?

11 MR. LaBARBERA: Objection.

12 A No.

13 MR. AVALLONE: Please mark this.

14 (IAB Document was marked as Plaintiff's
15 Exhibit 47 for identification, as of today's
16 date.)

17 Q Officer Sullivan, I am going to show you what
18 we have marked as Plaintiff's Exhibit 47. It has a
19 cover sheet from IAB, Case Command, Command Center,
20 Case Number 201530348 and it's in reference to you
21 regarding IAB's investigation of the charges made by
22 Officer Attali.

23 MR. SINGLETON: Just for the record
24 because again, as yesterday, you're marking a
25 copy that's not stamped confidential and it's

1 B. SULLIVAN

2 understood that these are confidential
3 documents.

4 MR. AVALLONE: Correct.

5 Q I am going to ask you to go to page twelve of
6 Exhibit 47. It looks like text messages right there.

7 These are text messages that you sent,
8 correct, to Officer Attali?

9 A Yes.

10 Q If you turn two more pages, there's a
11 photograph also that you sent to Officer Attali, one
12 more, do you see that?

13 A Yes.

14 Q And those are photographs of corpses or dead
15 bodies from the Holocaust, correct?

16 MR. SINGLETON: Objection.

17 MR. LaBARBERA: Objection.

18 You can answer.

19 A They could be. I couldn't tell you
20 100 percent sure that that's where they are from.

21 Q Those are dead bodies, correct?

22 A That appear to be.

23 Q They are in a pit?

24 A Yes.

25 Q During roll call, Officer Attali would have

1 B. SULLIVAN

2 been present, correct?

3 MR. LaBARBERA: Objection.

4 You can answer.

5 A Sometimes, yes. Other times, since he was
6 assigned to the desk, the bosses would just tell him to
7 sit at the desk.

8 Q You don't deny the fact that at some point
9 you grabbed Officer Attali's shirt to see if he had some
10 type of a recording device on him?

11 MR. LaBARBERA: Objection.

12 You can answer.

13 A I do deny it. I did not do that.

14 Q You never grabbed his shirt for any reason?

15 A No.

16 Q After you returned from the OEEO interview
17 with Sergeant Soto or anyone else at OEEO, did you ever
18 place your hands on Officer Attali and ask him why he
19 filed a complaint?

20 A No.

21 Q Or anything to that nature?

22 A No.

23 Q After you came back from OEEO, you spoke with
24 Officer Delbroccolo, correct, in regards to the
25 interview?

1 B. SULLIVAN

2 MR. LaBARBERA: Objection.

3 MR. SINGLETON: Objection.

4 A I couldn't tell you for sure. It's possible
5 but --

6 Q At some point you learned that
7 Officer Delbroccolo also went to the OEEO, correct?

8 A Correct.

9 Q When he came back, did he ever speak to you
10 about it?

11 A Just like before, it's possible but I
12 couldn't tell you specifically.

13 Q At some point, Officer Beneduce also went to
14 the OEEO, you're aware of that?

15 A Yes.

16 Q When he came back, did you speak to him or
17 did he speak to you regarding him going?

18 A It's possible.

19 Q Do you recall ever speaking to any of your
20 supervisors after you came back from the OEEO interview?

21 MR. LaBARBERA: Objection.

22 A About the OEEO interview?

23 Q Yes.

24 A It's possible. Specifically, I couldn't tell
25 you.

1 B. SULLIVAN

2 Q What would you have told them or what would
3 they have asked you?

4 MR. LaBARBERA: Objection.

5 MR. SINGLETON: Objection.

6 A I have no idea.

7 MR. AVALLONE: I have no further
8 questions.

9 EXAMINATION BY

10 MR. SINGLETON:

11 Q Good morning, Officer Sullivan.

12 A Good morning.

13 Q My name is Gerald Singleton and I represent
14 the City of New York and the supervisory officer
15 defendants that is Deputy Inspector Kevin Burke,
16 Sergeant Felix Santana and Sergeant Alex Porcelli.

17 Describe for me your relationship with
18 David Attali.

19 A It was a friendly one, joking, joking
20 relationship. We would shoot the shit with each other.

21 Q When you say it was a joking relationship,
22 what do you mean?

23 A Well, we joked back and forth with each
24 other. He would send jokes to me. I would joke around
25 with him.

1 B. SULLIVAN

2 Q What is your background? Tell me your
3 background. Were you in the military?

4 A Yes, I was in the Marine Corp.

5 Q For how long?

6 A Four and a half years.

7 Q What rank were you when you finished?

8 A I finished as a sergeant, E5.

9 Q And you've been with the police department
10 how long?

11 A Just under ten years.

12 Q Did David Attali ever tell you or say to you
13 that he found any jokes you made offensive?

14 A Never.

15 Q Did he ever tell you that any statement you
16 made to him was offensive?

17 A Never.

18 Q Did he laugh at the jokes you made?

19 A Yes.

20 Q Did you ever hear him tell jokes about being
21 Jewish?

22 A Yes.

23 Q Or Jewish people?

24 A Yes.

25 Q Can you think of any examples?

1 B. SULLIVAN

2 A I can't think of anything in particular.

3 Q Where would these joking sessions take place?

4 A The locker room, text messages, outside the
5 command.

6 Q Did you smoke?

7 A I did not smoke, no.

8 Q Did you stand around outside the command with
9 Officer Attali while he engaged in smoking breaks?

10 A I'm sure it's happened.

11 Q Do you recall ever joking with David Attali
12 about anything that could be regarded as anti-Semitic in
13 the presence of a supervisor?

14 A I mean I guess it could be anti-Semitic but I
15 didn't think it was offensive to him at the time.

16 Q Right, but I'm asking those kinds of things,
17 that kind of joking, do you recall doing that in the
18 presence of a supervisor?

19 A Specifically, no.

20 Q The text messages that were included in
21 Exhibit 47, did you include any supervisory officers on
22 those text messages?

23 A Highly doubtful. I couldn't be specific
24 but --

25 Q What was the purpose of these group text

1 B. SULLIVAN

2 messages?

3 A It was to let actually the cops know when the
4 bosses were headed out on patrol.

5 Q When these messages were sent around that
6 said Lieutenant Chang is leaving, is going out or
7 whatever, is that what these messages say typically?

8 A Typically, yes.

9 Q And if it said Sergeant Santana is leaving to
10 go on patrol, would you include Sergeant Santana in that
11 message?

12 A Most likely, no.

13 Q Would Lieutenant Chang be included in those
14 messages?

15 A Most likely, no.

16 Q Would Sergeant Porcelli be included in those
17 messages?

18 A Probably not.

19 Q Would any supervisory officer be included in
20 those messages?

21 A Not on purpose.

22 Q In connection with all the documents you've
23 reviewed and all the hearings you've been at and OEE0
24 and IAB, have you seen any messages in which a
25 supervisory officer was inadvertently included?

1 B. SULLIVAN

2 A I didn't, no.

3 Q You testified that you had a joking
4 relationship with Officer Attali and did not regard the
5 jokes, the anti-Semitic material to be offensive to him,
6 correct?

7 A Correct.

8 Q What in his conduct made you believe that he
9 did not find it offensive?

10 A He never complained that it was offensive and
11 he would start some of the jokes himself.

12 Q Did you receive training at the academy about
13 the NYPD's OEEEO policies?

14 A Yes.

15 Q Did you receive a handout at the academy
16 about OEEEO policies and procedures?

17 A I'm sure I have. I couldn't tell you.

18 Q Are there materials posted in the WTC command
19 regarding OEEEO policies?

20 A Yes. I'm not there so I can't tell you if
21 there still is.

22 Q But while you were there, it was posted on
23 bulletin boards?

24 A Walls.

25 Q In more than one place?

1 B. SULLIVAN

2 A I'm sure. I couldn't tell you specifically.

3 Q Were there presentations during roll calls by
4 supervisory officers about OEE0 policies?

5 A I can't remember specifically.

6 Q Is there material in the patrol guide about
7 OEE0 policies?

8 A Yes.

9 Q You've testified that you have now admitted
10 that you sent what the department regards as
11 anti-Semitic messages, correct?

12 MR. LaBARBERA: Objection, but you can
13 answer.

14 A Correct.

15 Q And it's your position that at the time you
16 sent them, you did not believe that Officer Attali would
17 find them offensive --

18 A Correct.

19 Q -- based on your relationship with him?

20 A Correct.

21 Q Were you aware that Officer Attali went to
22 Israel to get married?

23 A I was.

24 Q Did you discuss his wedding plans with him?

25 A Not detailed plans. He told me he was

1 B. SULLIVAN

2 getting married.

3 Q Were you aware of anyone in the command being
4 invited to attend the wedding?

5 A He told a few of us. How serious of an
6 invite it was, I don't know.

7 Q Were you invited?

8 A Yes.

9 Q Who else was invited, to your knowledge?

10 A Probably a few of the midnight cops.

11 Q Do you know of any particular midnight cops
12 that were invited?

13 A The delegates, I believe, Officer Beneduce
14 and Officer Delbroccolo.

15 Q Did they tell you they had been invited?

16 A I don't remember, to be honest.

17 Q What is the basis of your belief that they
18 were invited?

19 A Saying it out loud.

20 Q Who saying it out loud?

21 A I'm sorry, Officer Attali saying it out loud.

22 Q Officer Attali saying it out loud?

23 A Yes.

24 Q That I have invited Officer Beneduce and
25 Officer Delbroccolo?

1 B. SULLIVAN

2 A It was more like if you guys come to Israel,
3 you can come to my wedding.

4 Q So it was in one of these conversations in
5 the locker room or outside the command where he said to
6 you you guys are welcome to come to my wedding?

7 A Yes.

8 Q Or you're invited to come to my wedding?

9 MR. AVALLONE: Note my objection.

10 A Yes.

11 Q Do you recall what words he used?

12 A No, I do not.

13 Q But you understood he was serious?

14 MR. AVALLONE: Objection.

15 MR. LaBARBERA: You can answer.

16 A I believe if I went to Israel, I believe I
17 would have been at his wedding.

18 Q You understood he was sincerely inviting you
19 to attend his wedding?

20 MR. AVALLONE: Objection.

21 A I think if I booked a ticket to Israel, he
22 would have invited me to his wedding. I think he kind
23 of knew we wouldn't book a flight to Israel but if we
24 did.

25 Q Did you think that was strange that he would

1 B. SULLIVAN

2 invite you to his wedding?

3 MR. AVALLONE: Objection.

4 MR. LaBARBERA: Objection.

5 A No.

6 Q These messages that have been shown to you
7 that have been characterized as anti-Semitic and you did
8 not believe them to be so, correct?

9 A Correct.

10 Q Were these sent every day or how often were
11 these kind of messages sent?

12 A I couldn't tell you an occurrence. I don't
13 think it was an everyday thing. A few times a week,
14 once a week.

15 Q Over what period of time?

16 A The four years we were at the command.

17 Q And in all that time, Officer Attali never
18 complained?

19 A Never.

20 Q Did any of the other officers who were
21 involved in these exchanges say hey, this is getting out
22 of hand?

23 MR. AVALLONE: Objection.

24 A No.

25 Q Did any of the other officers with whom you

1 B. SULLIVAN

2 were joking express shock at the messages going back and
3 forth?

4 A Not to my knowledge.

5 Q Did anybody ever tell you that, hey, you
6 better watch out, this stuff violates OEE0 policies?

7 A Did anyone tell me that specifically, no.

8 Q Did you have a reason to believe that they
9 violated OEE0 policies?

10 A No.

11 MR. SINGLETON: I have no further
12 questions.

13 MR. AVALLONE: No questions.

14
15 (Time noted: 11:02 a.m.)
16

17
BRENDAN SULLIVAN

18
19 Subscribed and sworn to
20 before me on this _____ day
21 of _____, 2017.
22

23 _____
24 NOTARY PUBLIC
25

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INDEX OF REQUESTS

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Production of a copy of the plea agreement
or any documents Officer Sullivan signed in
regards to resolving the charges and specs

9 3

Production of any and all tape recordings of
interviews conducted by anyone at OEEEO with
any of the witnesses or defendants in this
case if they have not been previously
provided. If they were provided, I would
ask to be informed as to what the Bates
stamp location of those items are

27 18

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C E R T I F I C A T I O N

I, ALETHA A. KOUMOURDAS, a Notary Public in and for the
State of New York, do hereby certify:

THAT THE WITNESS(ES) whose testimony is hereinbefore set
forth, was duly sworn by me; and

THAT the within transcript is a true record of the
testimony given by said witness(es). I further certify
that I am not related, either by blood or marriage, to
any of the parties to this action; and I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this
20th day of May, 2017.

ALETHA A. KOUMOURDAS